



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

ENERGY

IN THE MATTER OF THE ESTABLISHMENT OF
UNIVERSAL SERVICE FUND PURSUANT TO
SECTION 12 OF THE ELECTRIC DISCOUNT)
AND ENERGY COMPETITION ACT OF 1999

ORDER OF CORRECTION

DOCKET NO. EX00020091

(SERVICE LIST ATTACHED)

BY THE BOARD:

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 ("EDECA" or "the Act") provided that the Board of Public Utilities ("Board") should establish a non-lapsing Universal Service Fund (USF) to assist low income consumers with the payment of electric and gas bills. The Department of Human Services (DHS) is the Board-designated Program Administrator, responsible for determining USF eligibility and calculating USF benefits. The USF program targets its benefits and eligibility such that no USF recipient pays more than approximately 3% of his or her household income towards its gas or electric utility bill.

On December 14, 2005, in BPU Docket No. GR05060488 the Board voted to approve rate increases for all four of the State's gas utilities. Subsequent to the December 14, 2005 rate increase, several interested parties representing low-income communities submitted a request to the Board to provide relief to USF customers who had their benefits calculated prior to the rate increase. The Board, in response to that request, in an Order dated February 15, 2006, entitled "ORDER TO ADJUST USF GAS BENEFITS FOR USF ENROLLEES CALCULATED PRIOR TO DECEMBER 15, 2005 RATE INCREASE, DOCKET NO. EX00020091" ordered DHS and utilities to adjust the USF gas benefit for all current USF enrollees that had their gas benefit calculated on or before the December 14, 2005 rate increase.¹ Such adjustment was to reflect an energy burden calculation based on the rates in effect as of December 15, 2005.

The Board, in its February 15, 2006 Order, further directed that USF applicants screened prior to the December 14, 2005 rate increase, but found ineligible for USF, be re-screened for eligibility, based on rates in effect as of December 15, 2005, directing Staff to work with utilities, DHS, and the Office of Information Technology ("OIT") through the USF Technical Group to effect such adjustment and limited re-screening as expeditiously as possible. These orders and directives were faithfully executed.

¹ Commissioner Christine V. Bator was not a member of the Board as of the February 1, 2006, Agenda Meeting at which the Board ordered utilities to adjust USF gas benefits in response to a rate increase. Commissioner Connie O. Hughes dissented, with respect to the Board's decision at that meeting, as reflected in the Board's February 15, 2006 Order.

This present Order of Correction involves correction of a DHS calculation error discovered in the month of April in implementation of the Board's February Order. DHS determined that approximately 17,000 customers inadvertently received an incorrect USF credit in excess of the amount for which they would normally have qualified based on a calculation error that occurred in processing and re-screening files, hereinafter such amount is referred to as "over-credit". The calculation performed did not properly account for LIHEAP in determination of the USF benefit amount as set forth in prior Board Orders.

Upon discovery of the error, DHS directed affected utilities to correct the error in accordance with its instructions as Program Administrator, to cease and, to the extent possible, correct and collect the potential disbursement of over-credits which had occurred to date and to make corrections so that no more over-credits would be issued upon correction of the error. Due to programming complexities, and potential customer impacts, utilities proposed an alternative for the Board to consider. Such alternative would not result in subsequent collection of amounts inadvertently over-credited between the date of the initial error and the date of correction, but would prevent over-credits on a "going forward" basis.

The alternatives presented require the Board to decide upon a two-prong issue: first, to correct the error on a "going forward" basis and second, to determine the appropriate policy with respect to recoupment from low-income customers who received the over-credit through no fault of their own. Staff considered the options, and for the reasons set forth below, concurs that the option which corrects the error on a "going forward basis" without recoupment is most favorable to the intended recipients of USF and most equitable and administratively feasible in light of the complexity of correcting the error. Staff's recommendations take into account the options set forth above, and a number of additional considerations.

First, the USF Program is intended to provide energy assistance to low-income households. Those customers most directly impacted by the DHS calculation error and any effort to recoup the credits already incorrectly disbursed, are among the most vulnerable ratepayers in greatest need of energy assistance, as evidenced by their receipt of LIHEAP benefits. Second, based on Staff's calculation, rate impact of non-recoupment on all gas customers is de minimus. Specifically, the cost of the calculation error, if allocated among all gas customers, amounts to an approximate rate impact of less than 1/20th of one percent of a residential gas customer's bill or approximately four cents per month, over the course of a year, for all gas residential customers. Third, BPU Staff consulted with the USF Technical group, and the other affected parties, in this matter. Staff strongly believes that recovery from recipients of benefits paid to them as a result of a calculation error would contravene the spirit of the USF program. The ratepayers most greatly affected by any recoupment effort would be the least able to bear the burden of having to repay benefits credited to their utility accounts in error, through no fault of their own. For example, if the Board were to require repayment or offset of over-credited benefits received by low-income households, it would most greatly impact those households because the total amount to be recouped would appear as a one-time "lump sum" charge on their bill, in some cases, constituting more than 1% of the customer's entire annual income. As such, low income customers who received such over-credits are among those least able to repay benefits received in error. Whereas, a decision to not recoup such over-credits disbursed in error would only have a de minimus impact on other gas ratepayers. As such, Staff concludes the complexity of recoupment outweighs its benefits. Persons who inadvertently received an over-credit or erroneous benefit amount would be unduly harmed by such recoupment. Little or no benefit to other ratepayers would occur as a result of any correction alternative presented or considered. Accordingly, Staff recommended the Board direct utilities to not collect or reprogram utility systems in an effort to collect or offset USF credits in advertently over-credited or provided to applicants in error.

Ratepayer Advocate and other members of the USF Working Group may wish to comment on the issue of recoupment. To accommodate any such comment, Staff recommended the Board issue an Order adopting Staff's recommendations, and make such order effective ten days from the date of signature of the Order. Any persons objecting to execution of the Order must file objections to this Order with the Board, within seven days of the Order's signature.

FINDINGS AND ORDER

The Board HEREBY FINDS it necessary and appropriate to direct the utilities to immediately correct the over-credit on a "going-forward" basis, in the next possible billing cycle. This means the utilities shall adjust and credit benefits such that the customers receive an amount to be credited on a monthly basis consistent with what the correct monthly benefit should be, based on the program's criteria and method for determining the benefit amount as approved by the Board. The Board HEREBY DIRECTS Staff to work with DHS, OIT and utilities to effect such correction expeditiously.

The Board HEREBY ADOPTS Staff's recommendation to direct utilities to correct the over-credit error on a "going forward" basis and Staff's recommendation to decline to recoup such over-credits solely from low-income USF customers whose accounts have been over-credited. Board HEREBY FINDS, in weighing the impact on low income households against impact on other ratepayers generally, the equities favor non-recoupment of over-credited amounts from the affected low-income ratepayers. The Board HEREBY AFFIRMS that the correction is to be administered such that, following correction, an affected USF customer should receive a monthly credit equal to what the customer would have received each month had no such calculation error occurred. The Board HEREBY DIRECTS that the correct amount should be reflected in each month's billing cycle for the remainder of the customer's benefit period upon implementation of this order.

The Board HEREBY FINDS customers that would not have qualified for any USF benefit, "but for" the calculation error, shall not be required to repay the USF amounts credited to their account. However, the Board HEREBY DIRECTS utilities to cease any on-going enrollment in the "Fresh Start" program for any enrollees, upon correction of the error, no longer qualify for the program. However, the Board HEREBY RESERVES its right to permit future enrollment, if those customers affected by this Order subsequently qualify in a successive USF program year.

The Board HEREBY RESERVES its right to review DHS's methodology in administering benefits, as well as utility billing practices, in conjunction with the Board's anticipated review of a USF Process and Impact Evaluation, and determine at that time if any further action is required to address this matter. The Board HEREBY DIRECTS Staff to review relevant statutes, regulations, and practices of other assistance programs that may address similar issues involving calculation errors or erroneous disbursement of benefits. The Board does not consider this Order precedent for any future determinations regarding utility collection practices or recoupment of over-credits in any other USF matter. In this particular case, the overall purpose and objectives of the USF program, the current volatility of gas prices, and fact that the over-credit errors are calculation errors and not the result of any action on the customer's part, weighs heavily in the Board's consideration of this issue. The Board HEREBY RESERVES the right to determine the appropriate disposition of any over-credits or comparable errors, should they occur in the future.

The Board HEREBY DELAYS the effective date of this order for ten (10) days from the date of signature of the order. Within that same ten (10) day time period, prior to the order becoming effective, any party objecting to this Order of Correction must file such objections, setting forth

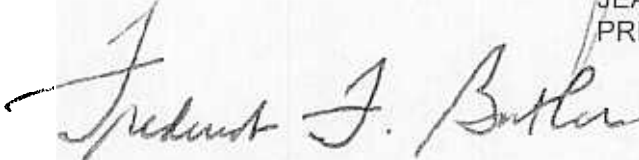
the reasons therefore, within seven (7) days. Any such objections must be filed with the Board and sent to the USF service list via email or fax. Any objections should address only the issue of the Board's determination as to non-recoupment of over-credits disbursed in error. Upon expiration of the seven (7) day period to file objections, if no such objections are filed, this Order of Correction shall become final at the end of ten (10) days from the date of signature of the Order.


The Board HEREBY DIRECTS Staff to report back to the Board at its June 7, 2006 Board Meeting as to the status of the successful implementation of this order.


DATED: 5/16/06

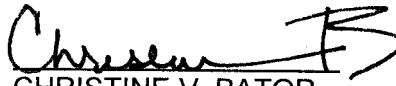
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ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities

